

Examiner-Initiated Interview Summary	Application No. 09/621,781	Applicant(s) FISHER ET AL.
	Examiner David A. Lambertson	Art Unit 1636

All Participants:

(1) David A. Lambertson, Ph.D.

Status of Application: _____

(3) _____.

(2) Lisa B. Kole, M.D., Ph.D.

(4) _____.

Date of Interview: 5 November 2003

Time: 3:30pm

Type of Interview:

- Telephonic
 Video Conference
 Personal (Copy given to: Applicant Applicant's representative)

Exhibit Shown or Demonstrated: Yes No

If Yes, provide a brief description: _____

Part I.

Rejection(s) discussed:

Claims discussed:

1,7,38-40

Prior art documents discussed:

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

See Continuation Sheet

Part III.

- It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
 It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Applicant's attorney/agent was contacted concerning the approval of an Examiner's Amendment. The following issues were raised as requiring amendment prior to the allowance of the claims: (1) the recitation of functional language (i.e., that the nucleotide sequence had promoter activity) in claim 1; (2) the amendment of claim 11 to properly indicate multiple dependency in the alternative; (3) the cancellation of the language "PEG-3 promoter" in claims 38-40. As it regards part (3), it was indicated that the indication of the claimed nucleotide sequence as a "PEG-3 promoter" and having "PEG-3 promoter" activity was indefinite because the claimed nucleic acid had permutations that were not actually PEG-3 promoters (for example, the specific order of the functional sequences could be substantially different from the order in which they originally appear in a PEG-3 promoter). It was suggested that the cancellation of the term "PEG-3" would obviate a 35 USC § 112, second paragraph rejection. The amendments were approved by Applicant's agent/attorney, and are reflected in the attached Examiner's Amendment..